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PTO/SB/21 (09-04)

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Total Number of Pages in This Submission

5

Application Number

09/514,149

Filing Date

February 28, 2000

First Named Inventor

S. Afshar, et al.

Art Unit

2126

Examiner Name

L. Truong

Attorney Docket Number

1999-0710

ENCLOSURES (Check all that apply)☐

Fee Transmittal Form

☐

Fee Attached

☐

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐Reply to Missing Parts/
Incomplete Application☐Reply to Missing Parts
under 37 CFR 1.52 or 1.53☐

Drawing(s)

☐

Licensing-related Papers

☒

Petition

☐Petition to Convert to a
Provisional Application☐Power of Attorney, Revocation
Change of Correspondence Address☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) _____

☐

Landscape Table on CD

☐

After Allowance Communication to TC

☐Appeal Communication to Board
of Appeals and Interferences☐Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐

Proprietary Information

☐

Status Letter

☐Other Enclosure(s) (please identify
below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Law Office of Jeffrey M. Weinick, LLC

Signature

Printed name

Jeffrey M. Weinick

Date

November 16, 2005

Reg. No.

36,304

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**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Application No. : 09/514,149 Confirmation No. 9235
Applicants : S. Afshar, et al.
Filed : February 28, 2000
Group Art Unit : 2126
Examiner : L. Truong
Docket No. : 1999-0710

Title : PARADIGM IN MULTIMEDIA SERVICES CREATION
METHODOLOGY, AND NEW SERVICE CREATION
AND SERVICE EXECUTION ENVIRONMENTS

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450.

**REQUEST FOR RECONSIDERATION
OF
DECISION ON
PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 CFR §1.181**

This is a Request for Reconsideration of the Decision on the petition under 37 CFR §1.181 requesting withdrawal of the holding of abandonment in this patent application. The petition was filed on November 4, 2004. A decision dismissing the petition was dated September 21, 2005. Applicants hereby request reconsideration and granting of the petition.

I. Original Petition

For convenience, the text of the original petition, as filed on November 4, 2004, is set forth as follows.

This application was filed on February 28, 2000. An Office Action was mailed on January 29, 2003 with a shortened statutory period for reply of 3 months, making a response due on April 29, 2003.

A Notice of Abandonment was mailed on January 29, 2004 indicating that the application was abandoned in view of Applicants' failure to file a proper reply to the Office Action.

Applicants hereby request withdrawal of the holding of abandonment in view of an Amendment which was timely filed on April 29, 2003 under the provisions of 37 CFR 1.8(a) via facsimile transmission.

As evidence of the timely filing of this response, attached¹ to this petition are copies of the following documents:

1. an Amendment (8 pages) in this application dated April 29, 2003;
2. a Facsimile Cover Sheet (1 page) containing a Certificate of Transmission Under 37 CFR 1.8 certifying that the Amendment was facsimile transmitted to the United States Patent and Trademark Office on April 29, 2003; and
3. the sending facsimile unit's transmission report confirming transmission of 9 pages on April 29, 2003.

The Notice of Abandonment indicates in numbered paragraph 7 that "[t]he phone call was made to applicant's representative to make sure that the application was abandoned." However, an inquiry has been made and the undersigned Applicants' representative has been informed that there is no indication in Applicants' files regarding such a telephone call from the Examiner.

Based on the information set forth above, Applicants request withdrawal of the holding of abandonment and the entry and consideration of the attached Amendment dated April 29, 2003.

II. The Decision on the Petition

The Petition was dismissed in a decision dated September 21, 2005. The decision dismissed the petition because it did not include a personal statement by the individual sending the original transmission. The decision stated that the

¹ In order to avoid undue duplication, the attachments referred to in the original petition are not attached to this Request for Reconsideration.

petition must contain evidence from the personal knowledge of the party sending the correspondence.

III. Request for Reconsideration

Applicants hereby request reconsideration of the decision dated September 21, 2005 dismissing this petition.

It is respectfully asserted that the decision applied a requirement which is not present in 37 CFR §1.8.

The petition was dismissed based on the inadequacy of the statement required under 37 CFR §1.8(b)(3). That section states:

Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. 37 CFR §1.8(b)(3).

The requirement of a statement regarding the previous timely mailing or transmission may be satisfied in either of two ways: 1) if it attests on a personal knowledge; or 2) if it attests to the satisfaction of the Director. Therefore, it is respectfully submitted that the dismissal of the petition was based on an incorrect requirement that "the petition must contain evidence from the personal knowledge of the party sending the correspondence". Such personal statement is not required in order to satisfy the rule, but is only one of two alternative ways of satisfying the rule.

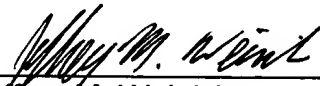
Applicants request that the petition in this case be reconsidered under the second alternative, that is, under the standard that the statement attests "to the satisfaction of the Director" to the previous timely mailing or transmission. It is asserted that in the original petition, the statement that the Amendment "was timely filed on April 29, 2003 under the provisions of 37 CFR 1.8(a) via facsimile transmission", along with the submitted evidence (i.e., the three numbered items described above in section I.), is sufficient to satisfy this standard.

With respect to evidence item number 3 (the sending facsimile unit's transmission report confirming transmission), Applicants note that 37 CFR §1.8(b)(3) specifically indicates that this may be used to support the statement of timely mailing or transmission. On this point, the Decision stated that such evidence "is not intended to be a substitute" for the required personal statement. Again, such a statement is based on the incorrect standard that a personal statement is "required". This facsimile transmission report is not submitted as a substitute for the personal statement, but instead is submitted to support the statement of timely transmission so that such statement is "to the satisfaction of the Director", which, as described above, is an alternative to the personal statement.

IV. Conclusion

For the reasons described above, Applicants hereby request reconsideration of the decision dated September 21, 2005 dismissing this petition. Based on the proper standard under 37 CFR §1.8(b)(3), Applicants respectfully assert that they have provided evidence which complies with the requirement that the statement attest, "to the satisfaction of the Director", to the previous timely mailing or transmission.

Respectfully submitted,



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